

3. The interlocutory appeal is docketed on appeal as *Stapleton v Lozano, et. al.*, Case No. 24-40155 (U.S. Fifth Circuit). The case has been briefed, and the Fifth Circuit set oral argument for November 5, 2024. *See Appeal Doc. #53 – Notice of Oral Argument Setting for 11/5/2024.*

4. On 10/7/2024, Defenses Counsel received the Court’s Notice of Resetting setting a hearing in this matter for 10/22/2024 at 2:30 p.m. *See Doc. 337.*

5. Undersigned Defense Counsel filed an Advisory to the Court relaying the status of the 5th Circuit proceedings and conveying the belief that the District Court’s case was already under a stay of proceedings. *See Doc. #38 – Defendants’ Advisory.* The Court’s staff advised that no stay was in fact in place.

CERTIFICATE OF CONFERENCE

6. In light of the foregoing information, Undersigned Defense conferred with Opposing Counsel regarding whether there would be any opposition to a Motion for Stay in this Court.

7. Opposing Counsell advised of No Opposition to a Motion for Stay and in fact concurred that Motion for Stay was agreed to in light of the pending Fifth Circuit proceedings, which are set for oral argument on 11/5/2024.

MOTION FOR STAY

8. Therefore, in light of the foregoing procedural status of the interlocutory appeal and the CITY DEFENDANTS in this cause hereby request that the District Court enter an Order staying and abating the District Court proceedings until the appellate proceedings are fully concluded.

9. Under the logic of *Carswell v Camp*, 54 F.4th 307 (5th Cir. 2022), the stay of proceedings pending disposition of the issues raised on appeal under the collateral order doctrine apply to the individual defendants as a matter of right.

10. Although the remaining Defendant in the case, the CITY OF PROGRESSO, is not a party to the appeal, the CITY DEFENDANTS would show that the Court, that depending on the disposition of the interlocutory appeal, the trial dynamics of the case is District Court will likely be seriously affected.

11. Therefore, as a matter of the Court’s discretion, the proceedings pertaining to the DEFENDANT CITY should also be abated until disposition of the issues on appeal have been fully resolved.

12. Therefore the CITY OF PROGRESSO DEFENDANTS respectfully request that the Court stay and abate the District Court proceedings in this case until the appellate proceedings are fully concluded.

CONCLUSION AND PRAYER

WHEREFORE, for the reasons specified above, CITY OF PROGRESSO DEFENDANTS request that the District Court enter an abatement and stay of its proceedings pending disposition of the issues on appeal.

SIGNED this 13th day of OCTOBER 2024.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of this document has been served on the persons or parties identified below in accordance with one or more of the recognized methods of service by the Federal Rules of Appellate Procedure on the 13TH day of OCTOBER 2024.

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